

S/N: 10/064,936
Reply to Office Action of July 25, 2003

Atty Dkt No. 201-1582 RLC (FMC 1599 PUS)

Remarks

Claims 1-12 and 14-19 are pending in the application. Claims 8-12 and 14-19 were allowed, claims 1-2, and 5-7 were rejected, and claims 3-4 were objected to. By this Amendment, claim 1 has been amended. Reconsideration of the claims is respectfully requested. No new matter has been added.

Oath/Declaration

The oath/declaration was objected to by the Examiner as being illegible. A new declaration is enclosed with this Amendment and is believed to cure the objection.

Rejection Under 35 U.S.C. § 102

Claims 1 and 2 were rejected under § 102(b) as being anticipated by United States Patent No. 276,821 to Hull (hereinafter Hull '821). Although Applicants do not agree that a *prima facie* rejection has been established, claim 1 has been amended to more distinctly claim the present invention. Specifically, claim 1 has been amended to recite a floor panel which is fixedly coupled to a front panel and first and second side panels. Such a construction further distinguishes the present invention from the wagon body in Hull '821 that has sides that are "all detachable" (column 2, line 86).

Notwithstanding the amendment above, the Applicants respectfully believe that claim language was improperly ignored when rejecting claim 1. Specifically, claim 1 requires a "first rail coupling said first side panel to said front panel" and a "second rail coupling said second side panel to said front panel." The Examiner contends that K' is a front panel. However, K' is a tail board located "at the tail of the wagon body" (column 2, line 60-72) and is not a front panel as required by the present invention. Moreover, the first and second rail P as defined by the Examiner does not couple the front panel K to any surface. Indeed, plate P does not contact front panel K. As such, the rejection of claim 1 and dependent claims 2-7 is improper and Applicants respectfully request that it be withdrawn.

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With regard to claim 2, Applicants respectfully disagree with the Examiner that element R in Hull '821 is an end cap member "disposed within said first rail and which selectively couples said first side panel to said front panel" as required by the present invention. As discussed above, the asserted first rail P is clearly not connected to a front panel. Instead, the metallic segmental plate P is connected to a tail board K' and permits the tail board to be dropped at an angle (column 2, lines 62-70). Consequently, a *prima facie* case has not been established with respect to claim 2 and Applicants respectfully request that this rejection be withdrawn.

Rejection Under 35 U.S.C. § 103(a)

Claims 5-7 were rejected under § 103(a) as being unpatentable over Hull '821 in view of U.S. Patent No. 3,842,755 to Carr (hereinafter "Carr '755"). Claims 5-7 depend on claim 2. As a result, the rejection of claims 5-7 is believed to be moot due to the amendment to claim 1 and the arguments pertaining to claim 2 discussed above.

With regard to claim 7, the Examiner again stated in reference to Hull '821 that "each of the first and second side panels are thought to be corrugated." However, there is no teaching of corrugated side panels in Hull '821. Instead, Hull '821 discloses a series of parallel boards (column 1, lines 28-29). Moreover, the panels depicted in Hull '821 are planar. Carr '755 does not cure the deficiencies of Hull '821. Consequently, a *prima facie* case of obviousness has not been established. Applicants respectfully request that the rejection be withdrawn or that information be provided that distinctly points out the basis for asserting that the first and second side panels are corrugated.

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Conclusion

Applicants have made a genuine effort to respond to the Examiner's objections and rejections in advancing the prosecution of this case. Applicants believe all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested.

Respectfully submitted,

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